IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.1099 OF 2000

IN

WRIT PETITION NO.2017 OF 2000

The Municipal Corporation of
Gr.Mumbai. ...Appellant.

vs.

1.The Rajabahadur Motilal Bombay
Mills Ltd. & another. ...Respondents.

Mr.A.Y.Sakhare with Nasir Shaikh, for Appellant.

None for Respondents.

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 4th August,2007.

P.C.:-

1. By this appeal, the appellant which is original respondent in Writ petition no.2017 of

2000 challenges the order dated 18.10.2000 passed by the learned Single Judge of this Court in Writ petition no.2017 of 2000, granting interim relief in terms of prayer clause (f). Prayer clause (f) to the petition reads as under:-

> “(f) pending the hearing and final disposal of the petition -
>
> (i) the attachment of the said structure as evidenced by the Warrant of attachment dated 18th September, 2000 Exhibit 'G' to the Petition be stayed – the Respondents nos.1 and 2, their employees, servants and agents and all persons claiming by under or through them as restrained by an order and injunction of this Hon'ble Court from demanding or enforcing the payment of the amounts claimed by the Respondents and covered by the warrant of Attachment dated

18th September,2000, Exhibit 'G' to the Petition;

(ii) the Respondents be ordered and directed to forthwith grant water connection to the additional construction put up by the Petitioners on the lands described in Exhibit 'A' to the Petition, and not withhold the same for payment of the alleged dues of the Respondents raised on account of and under the category of Land Under Construction, and covered by the Warrant of Attachment, Exhibit 'G' to the Petition;"

Thus, by the interim order the learned Single Judge has not only lifted the attachment and restrained the Corporation from demanding any amount but also has directed the Corporation to provide water connection to the petitioners. In

this appeal, a notice of motion was taken out by the appellant. In that notice of motion an order has been passed on 12.2.2001 whereby the attachment on the property was continued but the Corporation was restrained from selling the property. Thus, as a result of the interim order, the order made by the learned Single Judge granting interim relief in terms of prayer clause (f) stood modified in the sense that the order of the learned Single Judge lifting the attachment never came into effect and the property continued under the attachment, but the Corporation was restrained from selling the property.

2. We have heard the learned Counsel appearing for appellant. Nobody appears for respondents. In our opinion, as the interim order passed in this appeal has operated for so many years and now the petition itself is ripe for hearing, the following order would meet the ends of justice:-

The interim order passed by the Learned

Single Judge dated 18.10.2000 as modified by the order dated 12.2.2001 passed in the Appeal shall continue to operate during the pendency of the petition before the learned Single Judge. The learned Single Judge hearing the writ petition is requested to hear and dispose of the petition as expeditiously as possible. Appeal is disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA,J.)